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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 LARRY JUNIOR WEBSTER,  
12 Petitioner,

No. CIV.S-93-0306 LKK DAD DP

13 v.

ORDER RE EVIDENTIARY  
HEARING SCHEDULE

14 S.W. ORNOSKI, Acting Warden  
15 of the California State  
Prison at San Quentin,

16 Respondent.  
17 \_\_\_\_\_/

**DEATH PENALTY CASE**

18 This capital habeas action came before the court on August  
19 15, 2006, for a status and scheduling conference to prepare for the  
20 evidentiary hearing described in the court's July 27, 2006, order.  
21 James S. Thomson and Timothy J. Foley appeared on behalf of  
22 petitioner. Deputy Attorney Generals Stanley A. Cross and Patrick J.  
23 Whalen appeared on behalf of respondent. Having considered all  
24 written materials submitted in connection with the status conference,  
25 and after hearing from the parties, for the reasons set forth on the  
26 record during the hearing, IT IS HEREBY ORDERED as follows:

1 As to petitioner's claim of ineffective assistance of  
2 counsel during the penalty phase of the trial:

3 1. The depositions of the seven witnesses which were the  
4 subject of petitioner's earlier motion for order authorizing  
5 depositions shall occur during the period **October 1, 2006, through**  
6 **October 15, 2006.**

7 2. On or before **October 16, 2006**, the parties shall file  
8 with the court and serve upon each other the following with respect  
9 to non-expert witnesses:

- 10 a. A list of non-expert witnesses;
- 11 b. Direct testimony by declaration;
- 12 c. Designation of witnesses whose further testimony  
13 will be submitted by deposition;
- 14 d. Designation of witnesses intended to be called at  
15 the evidentiary hearing;
- 16 e. Copies of exhibits; and
- 17 f. Any documents submitted under Rule 7 of the Rules  
18 Governing § 2254 Cases.

19 3. On or before **October 30, 2006**, the parties shall file  
20 with the court and serve upon each other:

- 21 a. Any response, opposition or objections to non-  
22 expert witness designations; and
- 23 b. Designation of rebuttal witnesses.

24 4. A hearing to resolve any issues regarding non-expert  
25 witnesses is **SET** for **November 15, 2006, at 9:00 a.m.**

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1           5. The depositions of non-expert witnesses shall occur  
2 during the period **November 15, 2006, through January 15, 2007.**

3           6. On or before **January 12, 2007**, the parties shall file  
4 with the court and serve upon each other the following with respect  
5 to expert witnesses:

6                   a. A list of expert witnesses;

7                   b. Direct testimony by declaration;

8                   c. Designation of witnesses whose further testimony  
9 will be submitted by deposition;

10                   d. Designation of witnesses intended to be called at  
11 the evidentiary hearing;

12                   e. Copies of exhibits; and

13                   f. Any documents submitted under Rule 7 of the Rules  
14 Governing § 2254 Cases.

15           7. On or before **January 26, 2007**, the parties shall file  
16 with the court and serve upon each other:

17                   a. Any response, opposition or objections to expert  
18 witness designations; and

19                   b. Designation of rebuttal witnesses.

20           8. A hearing to resolve any issues regarding expert  
21 witnesses is **SET** for **February 7, 2007, at 9:00 a.m.**

22           9. The depositions of expert witnesses shall occur during  
23 the period **February 7, 2007, through March 15, 2007.**

24           10. A pre-evidentiary hearing status conference is **SET** for  
25 **March 21, 2007, at 9:00 a.m.**

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1           11. The evidentiary hearing on petitioner's claim of  
2 ineffective assistance of counsel during the penalty phase of the  
3 trial is SET for May 7, 2007, at 10:00 a.m. before the undersigned.

4 At this time, the parties represent in good faith that they believe  
5 the hearing will not require more than two weeks.

6           Next, as to petitioner's claims that California's capital  
7 sentencing statute fails to narrow the application of the death  
8 penalty in any meaningful way; and that petitioner was denied his  
9 right to meaningful appellate review by the California Supreme Court:

10           1. On or before **June 12, 2007**, the parties shall file with  
11 the court and serve upon each other the following with respect to all  
12 witnesses:

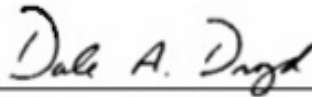
- 13                   a. A list of witnesses;
- 14                   b. Direct testimony by declaration;
- 15                   c. Designation of witnesses whose further testimony  
16 will be submitted by deposition;
- 17                   d. Designation of witnesses intended to be called at  
18 the evidentiary hearing;
- 19                   e. Copies of exhibits; and
- 20                   f. Any documents submitted under Rule 7 of the Rules  
21 Governing § 2254 Cases.

22           2. On or before **June 26, 2007**, the parties shall file with  
23 the court and serve upon each other any response, opposition or  
24 objections to the witness designations.

25           3. A hearing to resolve any issues regarding the witnesses  
26 is **SET** for **July 11, 2007, at 9:00 a.m.**

1           4. The evidentiary hearing on petitioner's "no narrowing"  
2 and meaningful appellate review claims is SET for September 5, 2007,  
3 at 10:00 a.m. before the undersigned. At this time, the parties  
4 represent in good faith that they believe the hearing will not  
5 require more than three days.

6 DATED: August 21, 2006.

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8 DALE A. DROZD  
9 UNITED STATES MAGISTRATE JUDGE

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